APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,819	01/22/2001	Robert M. Zeidman	ZEID-02	9823

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EXAMINER
SCHNURR, JOHN R

ART UNIT	PAPER NUMBER
2623	

MAIL DATE	DELIVERY MODE
08/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 May 2008</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-10</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-10</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to the Amendment after Non-Final Rejection

filed 05/29/2008. Claims 1-10 are pending and have been examined.

Response to Arguments

2.   Applicant's arguments with respect to claims 1-10 have been considered but are

moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3.   Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over the

1997 Broadcast of "Schindler's List" on NBC, in view of Matheny et al. (US Pat No

6,766,524), in further view of Blackketter et al. (US Pat No. 7,103,904) and further in

view of Williams et al. (US Pat. No. 6,075,971).

In regard to claim 1, the 'You Should Know Better, Mr. Spielberg" article provides
evidence that it is known in the art of television broadcasting to "allow content to
be broadcast without commercial interruption" yet still be sponsored by
companies. However, the evidence of the particular species of 'broadcast
programming' is silent with respect further providing incentives to viewers to
watch.

In an analogous art pertaining to the field of television, Matheny et al. discloses a
system and method to encourage viewers to pay attention to television programs
(Col 2, Lines 38-42). The method comprises "receiving a broadcast with
embedded information about the broadcast" (i.e. information associated with the
received triggers)" whereupon "said embedded information [is] provided to allow
construction of a viewing record of the broadcast" [271]. The system "extracts
and displays content from said broadcast" including content such as broadcast
programs, Internet data, etc. (Figure 2; Col 2, Lines 38-55) and further "extract[s]"
and "stor[es] said embedded information" derived from the VBI of said broadcast
(Col 4, Lines 28-36). The system further "collect[s] viewer information including a
user identifier and information indicative of an amount of the broadcast viewed by
the viewer, specific incentives being based in part on the amount of the
broadcast viewed by the viewer" (Figures 2-4 Col 4, Lines 14-26; Col 3, Lines 46-
55). Finally, the system "provides specific incentives" or rewards to the "viewer
based on said viewing record including information indicative of one or more
sponsors of the broadcast" (Col 2, Lines 5-7; Col 3, Lines 46-50; Col 4, Lines 14-

21). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Matheny et al. with other types of programming including "broadcasts without commercial interruption" for the purpose of providing a means to encourage viewers to pay attention to TV programs.

It is unclear from Matheny et al. whether or not the "embedded information includes information indicative of one or more sponsors of the broadcast" such as a sponsor name. Matheny et al. explicitly incorporates by reference US application serial No. 09/345,223 (now US Pat No. 7,103,904)(Col 5, Lines 20-25). Blackketter et al., in conjunction with its usage of advertising templates teaches that it is known in the art for "embedded information" such as triggers to "include information indicative of one or more sponsors of the broadcast" such as the sponsor name (Col 3, Lines 25-30; Col 5, Lines 13-15). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Matheny et al. using the teachings of Blackketter et al. for the purpose of providing for customization of interactive content in a manner that conserves bandwidth (Blackketter et al.: Col 3, Lines 7-16).

However, the above combination does not specifically teach collecting the viewer information without prompting the user for feedback.

In an analogous art pertaining to the field of television, Williams et al. discloses providing coupons to a network device without prompting the user for feedback (Col 2, Lines 3-20; Col 5, line 63 to Col 6, Line 5). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Matheny et al. and Blackketter et al. using the teachings of Williams et al. for the purpose of gathering user data without interruption.

In regard to claim 2, the 'You Should Know Better, Mr. Spielberg" article provides evidence that it is known in the art of television broadcasting to "allow content to be broadcast without commercial interruption" yet still be sponsored by companies. However, the evidence of the particular species of 'broadcast programming' is silent with respect further providing incentives to viewers to watch.

In an analogous art pertaining to the field of television, Methany et al. discloses a system and method to encourage viewers to pay attention to television programs. The method comprises "receiving a broadcast with information about the broadcast embedded into the broadcast at regular time periods, said information including timestamp each identifying the time slice during which the broadcast is received" (Figures 2-3 Col 4, Lines 28-36 and Col 7, Lines 28-30). The system "extract[s] and display[s] content from said broadcast" (Figure 2 Col 2, Lines 48-55 and Col 2, Lines 39-42) "extract[s] said embedded information from said broadcast" the embedded information is extracted from the VBI (Col 4, Lines 28-

36). Furthermore the system "increment[s] counters for counting time slices during which broadcasting is received" (Figures 2-4 Col 7, Lines 28-30 and Col 3, Lines 46-50) "stor[es] said embedded information" and "send[s] said embedded information, said counter values and viewer information to a remote computer to allow a viewing time to be determined" (Figures 2 and 4 Col 3, Lines 46-66). The system further "collect[s] viewer information including a user identifier and information indicative of an amount of the broadcast viewed by the viewer, specific incentives being based in part on the amount of the broadcast viewed by the viewer" (Figures 2-4 Col 4, Lines 14-26; Col 3, Lines 46-55). The system then "provid[es] specific incentives to the viewer based on said embedded information including information indicative of one or more sponsors of the broadcast" (Figure 2-4 Col 2, Lines 5-7, Col 3, Lines 46-50 and Col 4, Lines 14-21).

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Methany et al. with other types of programming including "broadcasts without commercial interruption" for the purpose of providing a means to encourage viewers to pay attention to TV programs.

It is unclear from Matheny et al. whether or not the "embedded information includes information indicative of one or more sponsors of the broadcast" such as a sponsor name. Matheny et al. explicitly incorporates by reference US application serial No. 09/345,223 (now US Pat No. 7,103,904)(Col 5, Lines 20-25). Blackketter et al., in conjunction with its usage of advertising templates teaches that it is known in the art for "embedded information" such as triggers to "include information indicative of one or more sponsors of the broadcast" such as the sponsor name (Col 3, Lines 25-30; Col 5, Lines 13-15). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Matheny et al. using the teachings of Blackketter et al. for the purpose of providing for customization of interactive content in a manner that conserves bandwidth (Blackketter et al.: Col 3, Lines 7-16).

However, the above combination does not specifically teach collecting the viewer information without prompting the user for feedback.

In an analogous art pertaining to the field of television, Williams et al. discloses providing coupons to a network device without prompting the user for feedback (Col 2, Lines 3-20; Col 5, line 63 to Col 6, Line 5). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Matheny et al. and Blackketter et al. using the teachings of Williams et al. for the purpose of gathering user data without interruption.

In regard to claim 3, the 'You Should Know Better, Mr. Spielberg" article provides evidence that it is known in the art of television broadcasting to "allow content to

be broadcast without commercial interruption" yet still be sponsored by companies. However, the evidence of the particular species of 'broadcast programming' is silent with respect further providing incentives to viewers to watch.

In an analogous art pertaining to the field of television, Methany et al. discloses a system and method to encourage viewers to pay attention to television programs. The method comprises "embedding information along with the broadcast content, said embedded information including information that allows viewer information to be determined, the viewer information including information indicative of an amount of the broadcast viewed by a remote viewer, specific incentives being based in part on the amount of the broadcast viewed by the remote viewer " and "broadcasting said content with said embedded information to a remote viewer of the content, the embedded information enabling a remote computer to retain the information indicative of one or more sponsors of the broadcast, and to determine the viewer information further including a user identifier and the information indicative of an amount of the broadcast viewed by the remote viewer, specific incentives being based in part on the amount of the broadcast viewed by the remote viewer " (Figures 3 and 4 Col 4, Lines 21-36, Col 2, Lines 48-55, Col 2, Lines 39-42, Col 2, Lines 5-7 and Col 3, Lines 46-66). The remote computer is 'enabled to retain' by virtue of having received the information autonomously.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Methany et al. with other types of programming including "content without commercial interruption" for the purpose of providing a means to encourage viewers to pay attention to TV programs.

It is unclear from Matheny et al. whether or not the "embedded information includes information indicative of one or more sponsors of the broadcast" such as a sponsor name. Matheny et al. explicitly incorporates by reference US application serial No. 09/345,223 (now US Pat No. 7,103,904)(Col 5, Lines 20-25). Blackketter et al., in conjunction with its usage of advertising templates teaches that it is known in the art for "embedded information" such as triggers to "include information indicative of one or more sponsors of the broadcast" such as the sponsor name (Col 3, Lines 25-30; Col 5, Lines 13-15). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Matheny et al. using the teachings of Blackketter et al. for the purpose of providing for customization of interactive content in a manner that conserves bandwidth (Blackketter et al.: Col 3, Lines 7-16).

However, the above combination does not specifically teach collecting the viewer information without prompting the user for feedback.

In an analogous art pertaining to the field of television, Williams et al. discloses providing coupons to a network device without prompting the user for feedback

(Col 2, Lines 3-20; Col 5, line 63 to Col 6, Line 5). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the combination of Matheny et al. and Blackketter et al. using the teachings of Williams et al. for the purpose of gathering user data without interruption.

In regard to claim 4, Matheny teaches "obtaining the stored embedded information so as to determine said viewer information" (Col 3, Lines 56-66) and "sending specific incentives to said viewer based on said viewer information " (Figures 2-4 Col 4, Lines 14-21). Williams teaches "the viewer information being determined without prompted viewer feedback provided by the remote viewer as part of remote viewer participation in an interactive reward program" (Col 2, Lines 3-20; Col 5, line 63 to Col 6, Line 5).

Claims 5-6 and 7-8 are met by that discussed above for claims 2-4.

In regard to claims 9-10, the recited limitations are met by that discussed above for claims 2-4 except the reference fails to explicitly disclose creating a Web page containing links to all sponsor incentive websites and to specific incentives and sending said Web page back to said viewer; however, the applicant's admission of fact provides evidence that it notoriously well know in the art to use a web page so as to facilitate the organization of URLs. Consequently, it would have been obvious to one of ordinary skill in the art to implement Matheny with the use a web page so as to facilitate the organization of URLs.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN R. SCHNURR whose telephone number is (571)270-1458. The examiner can normally be reached on Monday - Friday, 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

　　　　Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JRS
　　　　/Hunter B. Lonsberry/
　　　　Primary Examiner, Art Unit 2623